IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Paul Wegner
entitled: "Product For And Method
Of Controlling Odor"
S.N.: 10/058,548
Filed: 01/28/2002
Confirmation No.: 3755
Group Art Unit: 1615 Atty Docket No. 9280-20001
Primary Examiner: Robert M. Joynes

DECLARATION UNDER SECTION 1.132 TRAVERSING REJECTIONS AND OBJECTIONS

Declaration of Paul Wegner:

1. I have been employed as a researcher for the last thirty years.

2. In that occupation I have solved a broad spectrum of problems in applied chemistry. See my resume attached.

3. I have studied the Office Action mailed 05/04/2004 in the above identified application and the cited prior art references, and have the following comments.

4. As the Examiner recognizes, I have disclosed and claim a product, not only for substantially eliminating existing odors, but also for *substantially preventing the production of new odors* in matter. I do this by combining nitrate with a salt, represented as MO; where M = zinc, iron, calcium, magnesium, sodium or potassium and O = oxide, hydroxide, carbonate, bicarbonate or silicate. See Application page 4, lines 2, 3 and 4.

5. The prior art cited by the Examiner discloses the use of hydrogen peroxide and nitrate to destroy existing odors; but fails to recognize that the use of peroxide is not effective for long term odor control.

I recognized this weakness in using peroxide as noted in my application. "The peroxides and percarbonates are preferred, by lack long term stability..." Application page 6, line14. "Hydrogen peroxide is favored where immediate odor removal is desired and long term stability is not critical." Application page 9, lines 8 and 9.

In this regard, I note that peroxide and per carbonate (which is a peroxide) are capable of oxidizing organic materials.

The MO salts listed above are not capable of oxidizing organic materials. These salts are stable and capable of removing newly introduced foul odors over extended periods of time. In contrast, peroxides rapidly decompose upon application and thus do not remove foul odors that are introduced long after their application.

When the above listed MO salts are combined with nitrates, the nitrates prevent the MO salts from being exhausted by limiting the rate of odor generation from the waste material. In addition, these MO salts remove newly introduced odors; which hydrogen peroxide alone will not remove.

6. The cited references to Hamaguchi et al and Miyamoto et al both require hydrogen peroxide. My invention does not require it.

Furthermore, the use by me of the word "oxide" in combination with a metal, does not encompass "peroxide"; notwithstanding any misplaced generic usage I may have referenced in my application. To a chemist, a metal oxide would not include a peroxide.

7. The cited references to Sine ('766), Frismark et al ('010) and Stone ('269)lack any reference to the use of "nitrate" for odor control or for limiting the production of foul odors.

8. Thus there is nothing in these references to show or suggest that they should be combined for *substantially preventing the production of new odors* in matter for extended periods of time.

9. Once those of ordinary skill in this art read my application, they will have been taught that the combination of plain oxides with nitrates will *substantially prevent the production of new odors* in matter.

Furthermore, educated by this information, it would not take undo experimentation by one of ordinary skill in the art to come up with the right proportions to cure a given problem. For example, one faced with the problem of the stench from partially digested municipal sewage, might simply mix one gram of calcium carbonate and one gram of calcium nitrate with 100 grams of sewage. The foul odor would disappear right away and the sewage would remained odorless for several days.

Unlike some chemical applications, this application does not have a narrow sweet range of effectiveness. Even if a larger amount of salts was used, the result would have been the same.

The removal of odor is instantaneous; so that the salt need only be applied until the odor is gone. That does not require undo experimentation. People can detect foul odors with nothing more than their nose. Additional instrumentation is not required to determine if something, such as sewage, stinks.

As to the later generation of odors, the amount of nitrate can easily be determined by the length of odor control desired. For example, if one pound of nitrate controls the odor for one day and then the odor returns, one can easily surmise that two pounds will control the odor for two days.

The MO salt/nitrate mixture solves the problem of removing spikes of foul order that typically occur in municipal water treatment plants, since nitrates do not respond quickly enough. The MO salts do not have to be applied repeatedly to be effective; unlike peroxides, which lose effectiveness in minutes or at most a few hours.

10. Portland cement is known in the art as "a cement consisting predominantly of calcium silicates which reacts with water to form a hard mass."It is defined in the dictionary as "a hydraulic cement made by finely pulverizing the clinker produced by calcining to incipient fusion a mixture of argillaceaous and calcareous materials. Webster's New Collegiate Dictionary.

I declare under penalties of perjury that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such wilful, false statements may jeopardize the validity of the application or any patent resulting therefrom.

Paul Wegner

Date: August 5, 2003

RESUME

Paul Wegner
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CAPABILITIES:

Design, program and troubleshoot process equipment
Develop novel approaches to water pollution and energy reduction
Experienced in the synthesis of C13, C14, H2 and H3 labeled chemicals
Synthesized and characterized monomers, oligomers and polymers
Developed paint, soap and lead acid battery paste formulations
Mastered several analytical techniques - NMR, IR, TLC, GC, Enzymatic assays
Written several patent applications, articles and user manuals

ACHIEVEMENTS:

Sole inventor of the following machines and products:

Wash Maxi I	Reduced waste water volume for washing dry charge plates from 8,000 to 10 gallons per shift and recycles over 99% of the acid. Patent No. 4,572,746
Wash Maxi II	Washes over 15,000 automotive batteries, generates 10 gallons of waste water instead of the traditional 15,000. Reclaims over 99.9% of the acid. Patent No. 5,034,065
Lead Getter	Reduced lead in water from 10 ppm to less than 10 ppb by a settling process. It produces one pound of sludge per 1,000 gallons treated. Patent No. 5,055,201
Super Dryer	This new dryer produces battery plates with one fifth the moisture content in the same drying time. It uses 85% less electricity, 50% less gas and 50% less cooling water. Patent pending.
Seal Sensor I & II	Detects leaks in batteries of less than 15 and 1cc/min, respectively. Detects the pressure differentials of less than 6 millionths of a psi.
Dip Coat Separator	Battery plates are dipped into a special paint and allowed to air dry. The resulting battery has the same power and energy density as premium commercial batteries. Patent No. 4,524,509.
Antioxidation Agent	Allows the drying of formed and washed negative plates in the air. Patent No. 4,569,854.

WORK HISTORY:

1996—	Consultant
1980 to ~~present~~ 1996	Tiegel Manufacturing, Belmont, CA
1978 to 1981	Stanford Research Institute International
1974 to 1978	Purdue University

EDUCATION: